

1780

#5

S 9/30

LOWENSTEIN SANDLER PC
Attorneys at Law

65 Livingston Avenue
 Roseland, NJ
 07068-1791



Tel 973.597.2500
 Fax 973.597.2400
www.lowenstein.com

FACSIMILE COVER SHEET

FROM: **Glen E. Books**

Date **September 20, 2002**

TEL: **973.597.6162**

FAX: **973.597.6163**

E-MAIL: **gbooks@lowenstein.com**

TO: **Office of Initial Patent Examination**

FACSIMILE NO.: **703-746-9195**
 VOICE NO.: **800-786-9199**

TO:

FACSIMILE NO.:
 VOICE NO.:

TOTAL PAGES (WITH COVER)

6

CLIENT ID/MATTER #: **13631/2**

If you have any trouble with this transmittal, please call **973.597.2500 ext. 2849**

This facsimile contains Privileged and Confidential information. If you are not the intended recipient, dissemination of this communication is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone and return the original facsimile to the above address. We will reimburse you for all expenses incurred. Thank You.

13631-2

I certify that this document and fee is being deposited on September 20, 2002 with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231: Attention Office of Initial Patent Examination (OIPE); the document has also been sent to the OIPE via facsimile on 703-746-9195.



Alayne Geller

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of
Weihs *et al.*

Serial No.: 09/846,486

Group Art Unit: 1775
Examiner: TBA

Filed: 05/01/2001

For: Freestanding Reactive Multilayer Foils:

Honorable Commissioner of
Patent and Trademarks
Washington, D.C. 20231

SIR:

REQUEST FOR CORRECTED FILING RECEIPT

Applicants respectfully request a corrected filing receipt. The attached filing receipt mailed August 29, 2002 states the filing date as April 18, 2002 corresponding to applicants' filing of formal drawings rather than the filing date of May 1, 2001 corresponding to applicants' deposit of the application with drawings allegedly omitted.*

It is believed that the OIPE continues to treat this application as one that requires drawings to receive a filing date. To the contrary, the application contains method claims and

*Applicants use the term "allegedly omitted" because the application incorporated by reference the parent provisional application which included most of the referenced drawings.

13631-2
09/18/02 1265907.01

accordingly does not require drawings in order to receive a filing date. The application is therefore entitled to the filing date of deposit (May 1, 2001) even if the drawings were omitted (MPEP § 601.01(f) and § 601.01(g)).

Applicants respectfully submit that the issue of the filing date was resolved months ago in favor of May 1, 2001. The OIPE had incorrectly treated this case as an application that could not be granted a filing date without drawings and sent a notice withdrawing the originally granted filing date of May 1, 2001. In response, applicants' attorney telephoned Ms. Robinson of the OIPE who referred him to the Office of Petitions. Applicants' attorney then telephone the Office of Petitions using the number Ms. Robinson provided and discussed the problem with Ms. Gena Jones. A few days later Ms. Jones telephoned applicants' attorney and stated that a Notice of Omitted Item(s) would be issued and that the prior inconsistent notice from the OIPE would be withdrawn. This statement was noted in applicant's Preliminary Amendment, filed on April 12, 2002. But the OIPE has not yet sent the Notice of Omitted Item(s) nor withdrawn the inconsistent Notice of Withdrawal.

The procedure applicable to patent applications filed with drawings omitted is set forth in MPEP § 601.01(f) and MPEP § 601.01(g). Applications containing method claims are not denied the filing date of deposit even if the drawings are omitted.

MPEP 601.01(f) specifically notes that drawings are not required to obtain a filing date for applications containing method claims. It further provides that even if such application describes drawing figures but is filed the without drawings, the application should be treated as set forth in MPEP § 601.01(g), namely it should be granted the filing date of deposit and a "Notice of Omitted Items" should be sent.

The pertinent direction from MPEP 601.01(f) reads as follows:

A nonprovisional application having at least one claim...directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

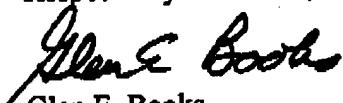
The proper treatment of such an application as set forth in MPEP § 601.01(g) is the mailing of a "Notice of Omitted Item(s) indicating that the application papers so deposited have been accorded a filing date, but are lacking some of the figures of drawings described in the specification.

In the present case, the application contains method claims. Specifically, it contains 32 method claims (1-17, 22, 28, 39 and 40-42). Furthermore it is abundantly clear that the application contains a written description. Indeed it contains 35 pages of written description including specific recitations of the methods claimed. See p. 19, line 13 *et seq.* Accordingly the application should be accorded the May 1, 2001 filing date.

In view of the foregoing, applicants respectfully request the mailing of the appropriate Notice of Omitted Item(s), withdrawal of the prior inconsistent Notice, and correction of the filing receipt mailed August 29, 2002.

No fee is believed required for entry of this Request; if any fee is due however, please charge the required fee or credit any overpayment to deposit account number 501358.

Respectfully submitted,


Glen E. Books
Reg. No. 24,950
Attorney for Applicants

DATED: September 20, 2002

LOWENSTEIN SANDLER PC
65 Livingston Avenue
Roseland, NJ 07068
Tel.: 973-597-6162



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
 UNITED STATES PATENT AND TRADEMARK OFFICE
 WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/846,486	04/18/2002	1775	1042	13631-2A	6	43	15

CONFIRMATION NO. 7867

GLEN E. BOOKS, ESQ.
 LOWENSTEIN SANDLER PC
 65 LIVINGSTON AVENUE
 ROSELAND, NJ 07068

FILING RECEIPT



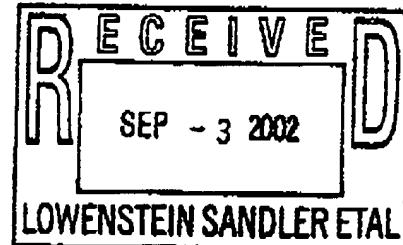
OC000000008707090

Date Mailed: 08/29/2002

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Timothy P. Weihs, Baltimore, MD;
 Todd Hufnagel, Baltimore, MD;
 Omar Knio, Timonium, MD;
 Michael Reiss, Baltimore, MD;
 David van Heerden, Baltimore, MD;
 Howard Feldmesser, Columbia, MD;



Domestic Priority data as claimed by applicant

THIS APPLN CLAIMS BENEFIT OF 60/201,292 05/02/2000

Foreign Applications

If Required, Foreign Filing License Granted 06/26/2001

Projected Publication Date: 12/05/2002

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title



Freestanding reactive multilayer foils

Preliminary Class

428

**LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).